

### ***Remarks***

This Amendment is in supplementation to the Amendment dated September 23, 2002 responding to the Office Action dated April 22, 2002 and in response to the personal interview courteously extended by the Examiner to applicant's representative, Timothy J. Martin on October 10, 2002. The remarks contained herein are intended to set forth Applicant's recollection of the substance of that Interview.

Applicant appreciates the time and attention given to Applicant's representative in the Interview. The Examiner and Applicant's representative discussed the claim rejections set forth in the Office Action dated April 22, 2002. Specifically, the claims of the present invention were discussed in view of the cited art, U.S. Patent No. 6,227,843 to Pedersen et al., U.S. Patent No. 5,094,223 to Gonzalez, and U.S. Patent No. 5,868,128 to Omar. Specifically, in the Office Action, various claims were rejected under 35 U.S.C. § 102 (a or e) as well as 35 U.S.C. § 103(a) as being unpatentable in view of the Pedersen et al. reference. Applicant's representative explained that Applicant submitted various Declarations under 37 C.F.R. § 1.131 to swear behind the Pedersen et al. reference. Although the Examiner had not received her formal copy of the Declarations at the time of the Interview, she acknowledged their submission and indicated that she would make her determination as to whether such Declarations would in fact be adequate to swear behind the reference.

The Examiner and Applicant's representative also discussed the structure of the apparatus disclosed in the Omar reference. Specifically, the Examiner and Applicant's representative agreed that Omar teaches a firepit apparatus having a fire pan with a main body portion. The Examiner and Applicant's attorney further noted that the the

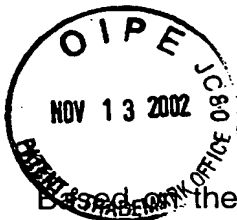
main body portion of the fire pan taught by Omar does not have an upper lip or rim in view of bracket elements 36, which are shown in Figure 3 and discussed in Column 3, lines 46-49.

Finally, the Examiner and Applicant's representative discussed the meaning of the term "geometrically similar." The Examiner took the position that the term "geometrically similar" should be interpreted to mean objects that share a geometric resemblance. Applicant's representative, however, identified the term "geometrically similar" as a term of art meaning that objects share a similar shape and that are proportional in size rather than identical in size. Accordingly, Applicant has added new claim 34 to recite that the base and the fire pan are configured as geometrically similar shapes.

Due to this Amendment, a new filing fee calculation is provided, as follows:

Maximum Total Claims This Amendment		Total Claims Previously Paid For	
33	-	33	= 0 x \$9.00 = \$0.00
Total Independent Claims Per This Amendment		Maximum Independent Claims Previously Paid For	
10	-	9	= 1 x \$42.00 = \$42.00
Additional Filing Fee Due			\$42.00

Accordingly, our check no. 17727 in the amount of \$42.00 is enclosed. The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 13-1940.



Based on the foregoing, it is believed that the present application is now in complete condition for allowance and action to that end is courteously solicited. If any issues remain to be resolved prior to the granting of this application, it is respectfully requested that the Examiner contact the undersigned attorney for the Applicant.

Respectfully submitted,

**TIMOTHY J. MARTIN, P.C.**

Timothy J. Martin, #28,640  
Michael R. Henson, #39,222  
Rebecca A. Gegick, #51,724  
9250 W. 5<sup>th</sup> Avenue, Suite 200  
Lakewood, Colorado 80226  
(303) 232-3388

**CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that the foregoing **SUPPLEMENTAL AMENDMENT (6 pages)** **AND CHECK NO. 17727 IN THE AMOUNT OF \$42.00** is being deposited with United States Postal Service as first class mail for delivery in a postage pre-paid envelope addressed to The Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231, on this 06 day of November, 2002.

Christy L. Burbank